

06-2531ghmAllenCollOrd.wpd

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

PHILLIP R. ALLEN,

Plaintiff,

v.

MAXIMILLIANO HERRERA , ET AL.,

Defendants.

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CIVIL ACTION NO. H-06-2531

ORDER

Phillip R. Allen, TDCJ-CID #200380, a state inmate proceeding *pro se*, filed this complaint alleging violations of his civil rights under 42 U.S.C. § 1983. Plaintiff has also filed an application to proceed *in forma pauperis* (Docket Entry No. 2). The Prison Litigation Reform Act of 1996 (PLRA) requires inmates filing lawsuits to pay an initial partial filing fee. The Act also requires prisoners to pay thereafter the balance of the full filing fee of \$350.00.

Accordingly, based on the documentation submitted by plaintiff, the Court **ORDERS** that:

1. The application for leave to proceed *in forma pauperis* (Docket Entry No. 2) is **GRANTED**.
2. Plaintiff is not assessed an initial partial filing fee.
3. Plaintiff shall pay \$350.00, the balance of the filing fees, in periodic installments as required by 28 U.S.C. § 1915(b).

4. Plaintiff is responsible for signing all consents and other documents required by the agency having custody of plaintiff to authorize the necessary withdrawals from the plaintiff's inmate trust account.

5. Service of process will be withheld pending judicial screening pursuant to 28 U.S.C. § 1915A.

6. No amendments or supplements to the complaint may be filed without prior court approval. A complete amended complaint will be attached to any motion requesting leave to amend.

7. All discovery in this case is stayed until the Court enters an order to answer.

8. No motions for appointment of counsel shall be filed until the Court has completed its screening pursuant to 28 U.S.C. § 1915A.

9. Plaintiff must notify the Court of any change of address by filing a written notice of change of address with the Clerk. Failure to file such notice may result in this case being dismissed for want of prosecution.

NOTICE TO THE PLAINTIFF:

A. Although you have been granted permission to proceed as a pauper, you must pay the full filing fee when funds are available under 28 U.S.C. § 1915(b). If you do not wish to pay the full filing fee, you must notify the Court in writing, by letter or motion, that you do not wish to prosecute this civil action. Your notice must be mailed within 30 days of the date of entry of this order, or prior to the Court's dismissal of this lawsuit, whichever date

is sooner. The Court may dismiss this lawsuit under 28 U.S.C. § 1915A at any time and without prior notice.

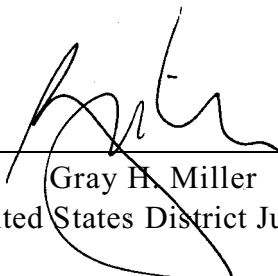
B. Payment of all or any part of the full filing fee will not prevent dismissal of the complaint if it is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. If the case is dismissed before payment of the entire filing fee, the plaintiff must still pay the entire filing fee.

C. When an inmate has three or more prior actions or appeals dismissed for being frivolous, malicious, or failing to state a claim upon which relief may be granted, federal law prohibits the inmate from bringing any more actions or appeals *in forma pauperis* unless the plaintiff is in imminent danger of serious physical injury. *See* 28 U.S.C. § 1915(g).

D. State law requires the forfeiture of good conduct time credits as a sanction for any state or federal lawsuit brought by an inmate while in the custody of the Texas Department of Criminal Justice – Correctional Institutions Division, which is dismissed as frivolous or malicious. *See* TEX. GOV'T CODE § 498.0045.

The Clerk of Court will send a copy of this order to the parties, to TDCJ–Office of the General Counsel, Capitol Station, P.O. Box 13084, Austin, Texas 78711, and to the Inmate Trust Fund, P.O. Box 629, Huntsville, Texas 77342-0629.

Signed at Houston, Texas, on August 4, 2006.



Gray H. Miller
United States District Judge